

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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TIMOTHY GUTIERREZ,

Petitioner,

Case No. 21-cv-657-pp

v.

WARDEN LIZZIE TEGELS,

Respondent.

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**ORDER DISMISSING PETITION AND CASE WITHOUT PREJUDICE FOR  
FAILURE TO PAY FILING FEE OR FILE AMENDED PETITION**

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On May 26, 2021, the court received from the petitioner a petition for a writ of *habeas corpus*. Dkt. No. 1. At that time, the petitioner was in custody at Fox Lake Correctional Institution. Id. at 1. The petitioner also filed a copy of his prisoner trust fund account statement. Dkt. No. 2. Two weeks later, the court received from the petitioner a motion for leave to proceed without prepaying the \$5.00 filing fee. Dkt. No. 6.

On May 24, 2022, the court denied the petitioner's motion to proceed without prepaying the filing fee because at the time he filed his trust account statement, the petitioner had more than enough money in his regular and trust accounts to pay the \$5.00. Dkt. No. 7 at 2. The court also noted that by that time, the petitioner was in custody at Jackson Correctional Institution. Id. at 1. The petitioner did not advise the court that he had been transferred; the court learned that the petitioner had moved by looking him up on the Department of Corrections web site. Finally, the court noted that the petitioner had not used

this court's form petition, which meant that the court did not have the information it needed to determine whether the petitioner was eligible for *habeas* relief. *Id.* at 4-5.

The court gave the petitioner a deadline of June 24, 2022 by which to pay the \$5.00 filing fee and to file an amended petition. *Id.* at 5. It provided the petitioner with a blank form petition and explained to him how he needed to complete that form. *Id.* at 4-5. It also provided him with a pamphlet titled "Habeas Corpus: Answers to State Petitioners' Common Questions" to assist him in preparing the amended petition. *Id.* at 5.

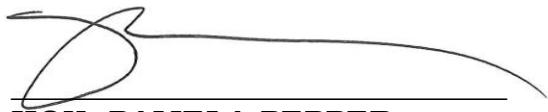
On June 21, 2022—three days before the deadline the court had set—the court received from the petitioner a motion for additional time to pay the filing fee and the amended petition. Dkt. No. 8. The petitioner did not explain why he needed this additional time. Nonetheless, on June 22, 2022, the court granted the petitioner's motion and extended the deadline for him to pay the \$5.00 filing fee and file the amended petition to July 22, 2022. Dkt. No. 9. The court reminded the petitioner that if it did not receive the \$5.00 filing fee and the amended petition (on the court's form) by the end of the day on July 22, 2022, the court would dismiss his petition without further notice or hearing. *Id.*

July 22, 2022 has passed and the court has received neither the \$5.00 filing fee nor the amended petition. As the court warned in both the May 24, 2022 order and the June 22, 2022 order, it will dismiss the petition and the case without prejudice for failure to pay the filing fee and failure to follow the court's order.

The court **ORDERS** that the *habeas* petition, and this case, are **DISMISSED WITHOUT PREJUDICE** for failure to pay the filing fee by the deadline set by the court and for failure to comply with the court's order to file an amended petition by the deadline the court set. The clerk will enter judgment accordingly.

Dated in Milwaukee, Wisconsin this 25th day of July, 2022.

**BY THE COURT:**



**HON. PAMELA PEPPER**  
**Chief United States District Judge**